



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/673,074

09/26/2003

Randall Heath

043850.016

2926

25461 7590 09/14/2009
SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

EXAMINER

SAFAVI, MICHAEL

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

09/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 3637

Box 13: Contd. Applicant's reply would serve to overcome the rejection of claim 10 under 35 U.S.C. § 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. However, the declaration filed June 12, 2009 is now defective in that the statement of errors contained within the declaration of June 12, 2009 appears inaccurate. Therefore, claims 1-10 would otherwise be held unpatentable as being based upon a defective reissue declaration under 35 U.S.C. § 251.

As the declaration presented on June 12, 2009 is not correct with respect to the amendment filed August 17, 2009 a rejection of claims 1-10 under 35 U.S.C. § 251 would be in order.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
August 31, 2009